



BOARD OF GOVERNORS  
OF THE  
FEDERAL RESERVE SYSTEM

WASHINGTON, D. C. 20551

DIVISION OF BANKING  
SUPERVISION AND REGULATION

**SR 02-18**  
**July 23, 2002**

**TO THE OFFICER IN CHARGE OF SUPERVISION AND APPROPRIATE  
SUPERVISORY AND EXAMINATION STAFF AT EACH FEDERAL  
RESERVE BANK AND TO EACH DOMESTIC AND FOREIGN  
BANKING ORGANIZATION SUPERVISED BY THE FEDERAL  
RESERVE**

**SUBJECT: Section 312 of the USA Patriot Act -- Due Diligence  
for Correspondent and Private Banking Accounts**

Section 312 of the USA Patriot Act<sup>1</sup> generally requires a U.S. financial institution that maintains a correspondent account or private banking account for a non-U.S. person to establish appropriate and, if necessary, enhanced due diligence procedures to detect and report instances of money laundering. Section 312 also describes specific enhanced due diligence standards for U.S. financial institutions that enter into correspondent banking relationships with foreign banks that operate under offshore banking licenses or under banking licenses issued by countries that (1) have been designated as noncooperative with international anti-money laundering principles by an international body (such as the Financial Action Task Force) with the concurrence of the U.S. representative to that body, or (2) have been the subject of special measures imposed by the Secretary of the Treasury under section 311 of the USA Patriot Act. In addition, section 312 describes anti-money laundering due diligence minimum standards for the maintenance of private banking accounts by U.S. financial institutions for non-U.S. persons.

The Treasury Department is authorized to issue regulations implementing section 312. The law provides that the provisions of section 312 become effective on July 23, 2002, whether or not final regulations are in place. On May 30, 2002, Treasury published in the *Federal Register* a proposed rule implementing section 312.<sup>2</sup> Treasury received a number of comments on this proposed rule and is still in the process of reviewing and analyzing them. Because of the complexity of the issues raised by the proposed rule, Treasury did not promulgate a final rule by July 23, 2002, but rather issued an interim final rule that is effective immediately.<sup>3</sup>

Treasury's interim final rule requires that insured depository institutions, U.S. branches and agencies of foreign banks, and Edge and Agreement corporations comply with the statutory requirements of section 312. A copy of the interim rule may be found on the Treasury website at: <http://www.treas.gov/press/releases/po3270.htm>. Treasury will be accepting written comments on the interim final rule for 30 days after the date of publication in the *Federal Register*.

In the interim final rule, Treasury also provides compliance guidance to banks and other immediately affected financial institutions. This guidance, which is set forth in supplementary information and not as a regulation, indicates what Treasury would consider as "reasonable" due diligence policies and procedures pending the issuance of a final rule. According to Treasury's guidance, these policies and procedures include (1) focusing on accounts that pose the highest risk of money laundering.

(2) according priority to those accounts opened on or after July 23, 2002, and  
(3) complying with existing best practice standards for banks, such as those issued by the Wolfsberg Group in May 2002, the New York Clearing House in March 2002, and the Bank for International Settlements in October 2001. Treasury noted that it could be reasonable for an institution not to apply every best practice standard if it has a justifiable basis for not adopting a particular practice.

Until Treasury issues a final rule implementing section 312, examiners should make certain that covered banking organizations under the supervision of the Federal Reserve are aware of the specific provisions of the law and have reasonable policies and procedures in place to assure and monitor compliance. Also, in accordance with existing Board practices concerning anti-money laundering related matters, and to ensure consistency throughout the System during this interim period, a Reserve Bank should notify Division staff if examiners believe that a banking organization is not in compliance with the plain terms of section 312.

Reserve Banks are asked to send a copy of this SR letter to the banking organizations in their districts that they supervise and to supervisory staff. Any questions with respect to this SR letter should be directed to Carmina S. Hughes, Special Counsel, at (202) 452-5235; Pamela J. Johnson, Senior Anti-Money Laundering Coordinator, at (202) 728-5829; or Nina A. Nichols, Counsel, at (202) 452-2961.

Finally, it is important to note that Treasury issued the interim final rule and that it may only be interpreted by that agency. Board staff will continue to work with Treasury to provide guidance to examiners and banking organizations supervised by the Federal Reserve.

Richard Spillenkothen  
Director

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**Note:**

1. Codified at 31 U.S.C. 5318(i).
2. Refer to 67 *Federal Register* 37,736.
3. Treasury anticipates issuing a final rule implementing section 312 by no later than October 25, 2002.